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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 [REDACTED], a minor,
12 and [REDACTED], her natural
guardian,

13 Plaintiffs,
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15 v.
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17 CALIFORNIA REGENTS SAN
18 DIEGO STATE UNIVERSITY et al.,

19 Defendants.
20
21

Case No. 3:12-cv-2444-GPC-MDD

REDACTED ORDER:

**(1) GRANTING RENEWED
MOTION TO PROCEED IN
FORMA PAUPERIS;**

**(2) DISMISSING FIRST
AMENDED COMPLAINT WITH
PREJUDICE;**

**(3) DENYING REMAINING
PENDING MOTIONS AS MOOT**

22 On February 12, 2013, plaintiff [REDACTED] (“Ms. [REDACTED]”) filed a first
23 amended complaint (“FAC”) on behalf of herself and her minor daughter, [REDACTED]
24 [REDACTED] (together, “Plaintiffs”). (ECF Nos. 10, 15.)

25 Ms. [REDACTED] filed the FAC after this Court instructed her to file amended
26 versions of her initial complaint, motion to proceed in forma pauperis (“IFP”), and
27 request for appointment of counsel. (See ECF Nos. 5, 6.)

28 Upon review of the Amended Motion to Proceed IFP, (ECF Nos. 12, 17), the

1 Court determined the Motion was moot because Plaintiff had paid the required filing
2 fee and did not request service of process by the U.S. Marshal. (See ECF Nos. 31, 32.)
3 The Court thus denied the Amended Motion to Proceed IFP. (Id.)

4 Upon review of the Amended Motion for Appointment of Counsel, (ECF Nos.
5 13, 16), the Court determined appointment of counsel was not appropriate because the
6 Amended Motion to Proceed IFP had been denied and because the Court determined
7 Plaintiffs had little to no likelihood of success on the merits given the fantastical
8 nature of Plaintiffs' allegations. (ECF Nos. 31, 32.) The Court thus denied the
9 Amended Motion for Appointment of Counsel. (Id.)

10 The Court further noted that "a parent or guardian cannot bring an action on
11 behalf of a minor child without retaining a lawyer." (Id. (citing Johns v. Cnty of San
12 Diego, 114 F.3d 874, 877-78 (9th Cir. 1997).) The Court thus gave Ms. [REDACTED]
13 until June 7, 2013, to retain counsel or face dismissal of the claims brought on behalf
14 of Daughter. (ECF Nos. 31, 32 at 4.)

15 On May 6, 2013, defendant County of San Diego ("County") filed a motion to
16 dismiss the FAC. (ECF Nos. 19, 29.) The Court set the County's Motion to Dismiss
17 for a hearing on September 6, 2013. On May 28, 2013, defendants La Mesa-Spring
18 Valley School District and John Parsons also filed a motion to dismiss the FAC, which
19 the Court set for a hearing on September 20, 2013. (ECF Nos. 34, 35.) On July 25,
20 2013, defendant Wendy Belger (erroneously sued as "Wendy TBD") joined the
21 County's Motion to Dismiss. (ECF No. 54.) Thereafter, on August 6, 2013,
22 defendants David Morse & Associates, Bill McDaniel, and Julie McDaniel filed a
23 motion to dismiss the FAC, which the Court also set for a hearing on September 20,
24 2013. (ECF No. 56.)

25 On June 11, 2013, Plaintiffs filed several motions, including: (1) a renewed
26 motion to proceed IFP to obtain U.S. Marshal service; (2) an alternative request for an
27 extension of time to serve the FAC; (3) a request for an extension of time to retain
28 counsel for Ms. [REDACTED]'s daughter; (4) a motion for leave to file a second amended

1 complaint; (5) a motion to disqualify judge; (6) a renewed motion for appointment of
2 counsel; (7) and a motion for extension of time to respond to the County's Motion to
3 Dismiss. (ECF Nos. 40, 43, 44, 45, 46, 47, 48, 49.)

4 On July 18, 2013, the Count filed an opposition to Plaintiffs' Motion for an
5 Extension of Time to Respond to the County's Motion to Dismiss, noting Plaintiffs had
6 not explained why they were unable to timely respond to the County's Motion or
7 require a continuance of the September 6, 2013 hearing that, at the time, was seven
8 weeks away. (ECF Nos. 52, 53.) On August 20, 2013, Plaintiffs filed another motion
9 for extension of time to respond to the County's Motion to Dismiss. (ECF Nos. 57,
10 59.)

11 **1. Motion to Disqualify Judge**

12 Plaintiffs move to disqualify the undersigned judge because, in denying
13 Plaintiffs' Amended Motion for Appointment of Counsel, the Court relied on language
14 from Plaintiffs' FAC that the County also relied on in its Motion to Dismiss.

15 Plaintiffs note that both this Court's order and the County's Motion to Dismiss
16 quote Plaintiffs' allegations regarding "multidimensional sexual experience[s]"; the
17 Church of Scientology's practice of "mind f**king"; "cycle[s] of energy vampirism"
18 in which defendants engage in a "predator[y] or parasitic lifestyle or demonic
19 possession," dependent upon locating "human hosts for their survival."

20 Plaintiffs argues "the defense has taken selected words or phrases from various
21 areas of the plaintiff's Amended Complaint, out of context and strung them together
22 in a couple of sentences and misconstrued the plaintiff's intended meaning." Plaintiffs
23 then provide an explanation of the "selected words or phrases," relying on a book
24 called, Psychic Vampires: Protection From Energy Predators & Parasites, written by
25 Joe H. Slate, Ph.D., along with another book entitled, Sacred Hunger: The Vampire in
26 Myth and Reality, written by Michelle Belanger.

27 Plaintiffs argue the County failed to diligently investigate Plaintiffs' allegations
28 before asserting Plaintiffs' claims were frivolous. Plaintiffs thus argue the undersigned

1 should recuse himself because “plaintiffs have used this expert supported phrase to
2 describe harmful experience and because the Court[’]s reliance on this phrase as
3 depicted by the defendant indicates a bias against the plaintiffs.”

4 Plaintiffs claim “the Court has accepted obvious defense strategies from the
5 [County],” including a defamatory attack on Ms. [REDACTED]’s credibility. Plaintiffs
6 claim the Court disregarded the Plaintiffs’ “references to expert support for her
7 allegations, [and] appears to have been intimidated by mere defensive tactics.”
8 Plaintiffs further claim that the County’s assertion that “it appears evident that the
9 plaintiff who signed and presumably prepared the Complaint, suffers from an
10 undiagnosed mental disorder” is a defensive tactic “meant to shed doubt on the
11 plaintiff’s credibility, [and] [i]mproperly influence the Court to hasten dismissal before
12 any discovery can be conducted.” Plaintiffs imply that the Court has shown bias
13 against Plaintiffs by allowing the County to file a motion that contains such statements.

14 Plaintiffs further claim the Court’s warning of dismissal if counsel was not
15 obtained for Ms. [REDACTED]’s daughter showed bias because it came soon after the
16 County’s assertion that it appeared the author of Plaintiffs’ FAC suffered from an
17 undiagnosed mental disorder.

18 In sum, Plaintiffs claim the Court has shown bias against them “by allowing the
19 defendants[’] defense strategies to influence [the Court] into taking action to ma[k]e
20 the determination that the plaintiffs claim is frivolous.”

21 Recusal of a federal judge is governed by 28 U.S.C. §§ 144 and 145. A judge
22 must “proceed no further” in a case if he “has a personal bias or prejudice” against or
23 in favor of any party. 28 U.S.C. § 144. A judge “shall disqualify himself in any
24 proceeding in which his impartiality might reasonably be questioned” and “[w]here he
25 has a personal bias or prejudice concerning a party.” 28 U.S.C. § 455(b)(1).

26 “Under both statutes, recusal is appropriate where a reasonable person with
27 knowledge of all the facts would conclude that the judge’s impartiality might
28 reasonably be questioned.” Yagman v. Republic Ins., 987 F.2d 622, 626 (9th Cir.1993)

1 (quotation omitted). A “reasonable person” is defined as a “well-informed, thoughtful
2 observer,” as opposed to a “hypersensitive or unduly suspicious person.” Clemens v.
3 United States Dist. Ct. for the Cent. Dist. of Cal., 428 F.3d 1175, 1178 (9th Cir.2005)
4 (quotation & citation omitted). Further, under § 455(b)(1), a judge must recuse himself
5 when he harbors actual bias. United States v. Holland, 519 F.3d 909, 915 (9th Cir.
6 2008).

7 Ordinarily, the party must allege “facts that fairly support the contention that the
8 judge exhibits bias or prejudice directed toward a party that stems from an extrajudicial
9 source.” United States v. Sibla, 624 F.2d 864, 868 (9th Cir.1980) (emphasis added).
10 This “generally requires as the basis for recusal something other than rulings, opinions
11 formed[,], or statements made by the judge during the course of the trial.” Holland, 519
12 F.3d at 913-14. “[J]udicial rulings alone almost never constitute a valid basis for a bias
13 or partiality motion.” Liteky v. United States, 510 U.S. 540, 555 (1994).

14 “[I]n the absence of a legitimate reason to recuse himself, a judge should
15 participate in cases assigned.” Holland, 519 F.3d at 912 (quotation & citation omitted).

16 First, the undersigned harbors no actual bias for or against any party to this
17 action. Second, the Court finds no reasonable person, as defined in Clemens, would
18 conclude the Court’s prior order demonstrates a bias against Plaintiffs. It is of no
19 moment that the Court relied on the same allegations that the County relied on in
20 determining whether Plaintiffs’ allegations bore any likelihood of success on the
21 merits, as it is common for courts and parties to rely on key allegations throughout the
22 course of a given case—especially, as here, where the key allegations form the crux of
23 a complaint. Finally, Plaintiffs have presented no evidence of bias “that stems from an
24 extrajudicial source.” That is, Plaintiffs have provided no information derived from a
25 source outside of these proceedings to demonstrate the undersigned is biased against
26 Plaintiffs. Accordingly, the Court must deny Plaintiffs’ “Motion to Disqualify Judge.”

27 **2. Renewed Motion to Proceed IFP**

28 On October 9, 2012, Plaintiffs paid the required \$350.00 filing fee. (See ECF

1 No. 1.) On that basis, the Court denied Plaintiffs' Amended Motion to Proceed IFP as
2 moot. (ECF Nos. 31, 32.) Plaintiffs now renew their request to proceed IFP in order
3 to obtain marshal service on the as of yet unserved defendants. (ECF Nos. 40, 43.)

4 **a. IFP**

5 All parties instituting any civil action, suit or proceeding in a district court of the
6 United States, except an application for writ of habeas corpus, must pay a filing fee of
7 \$350.00. See 28 U.S.C. § 1915(a). An action may proceed despite a plaintiff's failure
8 to prepay the entire fee only if the plaintiff is granted leave to proceed IFP pursuant to
9 28 U.S.C. § 1915(a). See Rodriguez v. Cook, 169 F.3d 1176, 1177 (9th Cir. 1999).

10 Ms. [REDACTED] declares she is currently unemployed, and that she was last
11 employed in April 2008. (ECF Nos. 12, 17.) Ms. [REDACTED] states that, in November
12 2012, she received a lump sum of approximately \$11,000 when she cashed out her
13 pension. (Id.) She states that she receives auxiliary social security disability payments
14 for the care of her daughter. (Id.) Ms. [REDACTED] states she has several checking and
15 savings accounts that, at the time of her declaration, had balances totaling
16 approximately \$7,700. (Id.) She further states that she has an educational IRA in her
17 minor daughter's name with a balance of about \$11,500. (Id.)

18 Ms. [REDACTED] asserts she owns four vehicles: an inoperable 1974 BMW, a
19 financed 1978 Mercedes with \$800 owed, a financed 2007 Sebring with about \$3,100
20 owed, and a financed 2004 GMC with about \$6,200 owed. She states that her wedding
21 ring set is worth about \$5,000. She states that she owns a single family home with
22 monthly mortgage payments of \$1,207.88, and that she pays an HOA fee of \$174 per
23 month.

24 Ms. [REDACTED] states her daughter and her husband are her dependents and that
25 she contributes about \$180 a month to each of them. She states she owes
26 approximately \$121,700 in student loans. She states that her day-to-day expenses are
27 provided by her husband's retirement and disability benefits. In total, the Court finds
28 Ms. [REDACTED]'s debts and expenses far exceed her assets and income and that she has

1 therefore demonstrated the inability to pay the required filing fee. Accordingly, the
2 Court will grant Plaintiffs' renewed motion to proceed IFP.

3 **b. Sua Sponte Dismissal**

4 Any complaint filed by a person proceeding IFP is subject to sua sponte
5 dismissal by the Court to the extent it contains claims which are "frivolous, malicious,
6 fail to state a claim upon which relief may be granted, or seek monetary relief from a
7 defendant immune from such relief." 28 U.S.C. § 1915(e)(2)(B); Calhoun v. Stahl, 254
8 F.3d 845, 845 (9th Cir.2001) (per curiam) ("the provisions of 28 U.S.C. §
9 1915(e)(2)(B) are not limited to prisoners."); Lopez v. Smith, 203 F.3d 1122, 1127 (9th
10 Cir.2000) (en banc) ("[S]ection 1915(e) not only permits, but requires a district court
11 to dismiss an in forma pauperis complaint that fails to state a claim.").¹

12 A complaint will be considered frivolous, and therefore subject to dismissal
13 under Section 1915(e)(2)(B)(i), "where it lacks an arguable basis either in law or in
14 fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989); see also Denton v. Hernandez,
15 504 U.S. 25, 32-33 (1992). The determination of whether a complaint is frivolous must
16 be weighted in favor of the plaintiff. Denton, 504 U.S. at 32. Indeed, a court cannot
17 properly dismiss an action commenced by an in-forma-pauperis applicant if the facts
18 alleged in the complaint are merely "unlikely." Id. at 33. A court, however, may
19 properly dismiss a complaint if the court finds the allegations to be "fanciful,"
20 "fantastic," or "delusional," or if the allegations "rise to the level of the irrational or the
21 wholly incredible." Id. (citing Neitzke, 490 U.S. at 325, 328). This standard applies
22 whether or not judicially noticeable facts exist to contradict the frivolous allegations.
23 Id. If a claim is classified as frivolous, no reason exists to grant leave to amend
24 because the underlying action of a frivolous claim, by definition, has no merit. Lopez,
25 203 F.3d at 1127 n.8.

26
27 ¹ See also Velarde v. Heartland Christian Homeschool Ctr., Inc., 2013 WL 244555 (S.D. Cal.
28 Jan. 22, 2013) (undertaking § 1915(e)(2)(B) analysis where plaintiff paid the filing fee but requested
to proceed IFP in order to obtain marshal service); Powell v. Federal Home Loan Mortg. Corp., 2012
WL 2261189 (D. Ariz. June 15, 2012) (same).

1 Here, Plaintiffs allege defendants violated their First, Thirteenth, Eighth, and
2 Fourteenth Amendment rights by subjecting them to gender, religious, and racial
3 discrimination.

4 To state a claim under § 1983, a plaintiff must allege (1) the deprivation of a
5 right secured by the federal Constitution or statutory law, and (2) that the deprivation
6 was committed by a person acting under color of state law. Anderson v. Warner, 451
7 F.3d 1063, 1067 (9th Cir. 2006) (citing West v. Atkins, 487 U.S. 42, 48 (1988)).

8 Ms. [REDACTED] alleges she attended San Diego State University from August
9 1981 through August 1986 and that, during that time, defendant Gene Lamke
10 (“Lamke”) discriminated against her via a “multidimensional sexual experience,” in
11 which he told “everyone in the class have a nice weekend but not [Ms. [REDACTED]].”
12 (ECF Nos. 10, 14 at 2.) Ms. [REDACTED] alleges she therefore “experienced a mental
13 breakdown while sitting in class.” (Id.)

14 Ms. [REDACTED] alleges that, in the spring of 2003, “Lamke was present the
15 morning after the plaintiff awoke from a Sea World sleep over . . . and indicated to
16 [other children there] that there was something wrong with [Plaintiffs],” thus causing
17 Ms. [REDACTED] to become fearful for her daughter’s safety. (Id. at 3.) Plaintiffs allege
18 this “discrimination [was] related to gender, religion, and race,” and that Plaintiffs’
19 “First, Thirteenth, Fourteenth Amendments have been violated.” (Id.) Plaintiffs allege
20 Lamke “misused research, scientific methods or religious practices to cause harm to
21 [Plaintiffs],” and that “Plaintiffs have suffered a series [of] repetitive multidimensional
22 sexual experiences causing an interference with their natural development and violation
23 to their civil rights.” (Id.)

24 Plaintiffs assert that “sheriff personnel are participating in the discrimination
25 scheme,” claiming that because “they are the law enforcement and the State’s muscle,
26 it follows that they will take up interests identified to them by State Actors, like
27 Lamke.” (Id.) Plaintiffs claim “the State has secured [sheriff personnel’s] cooperation
28 by use of their position and by the misuse of religious practices, science or research

1 methods.” (Id.)

2 Ms. [REDACTED] provides that she began having problems with sheriff’s
3 department personnel in 2003, alleging “they intentionally had multidimensional sex
4 with [Plaintiffs] and drained them of vital energy.” (Id. at 3-4.) Plaintiffs allege that
5 sheriff’s department personnel’s “dependency on victims allows them to be used by the
6 State defendant(s) to target plaintiff with discrimination that caused serious harm
7 leading to imminent death.” (Id. at 4.)

8 Ms. [REDACTED] elaborates that Lamke may be considered a social scientist and
9 that “his discriminatory scheme that provides him with sexual gratification likely
10 makes him a sexual psychopath.” (Id.) She asserts Lamke’s “state position allows him
11 to gain assistance by trust and his ability to misuse religious practices, science and
12 research,” including a “misuse of research regarding Maslow’s hierarchy of needs.”
13 (Id.) Ms. [REDACTED] asserts that “law enforcement would be stuck at the bottom level
14 of biological needs of feeding and with the full State Authority.” (Id.) Ms. [REDACTED]
15 asserts “this is a condition called psychic vampirism or involves a demon spirit called
16 incubus,” and “could be the result of improper training and supervision.” (Id.) Ms.
17 [REDACTED] claims this is supported by the fact that she “reported this theory to the
18 sheriffs in June 2010, July 2011, and February 2012 and about May of 2012 without
19 any indication that they will investigate the theory even though it has a high degree of
20 risk of harm,” including the “improper use of a spirit that has sex with female victims
21 while they sleep and drain them of vital energy.” (Id.) Ms. [REDACTED] claims “[t]his
22 misuse of State Action, religious practices, science and research not only victimizes
23 [Plaintiffs] but also the law enforcement at the same time they are trapped in a cycle
24 of energy vampirism, predatorial and parasitic lifestyle or demonic possession.” (Id.
25 at 5.) Ms. [REDACTED] asserts “[t]his means that they are depended upon locating human
26 hosts for their survival.” (Id.)

27 Plaintiffs claim “the defendant conspired with others to violate numerous civil
28 rights on a continuing basis,” using what the Church of Scientology calls a

1 “communication highway,” which is a “telepathic way to communicate.” (Id.)

2 Plaintiffs allege Lamke used “Church of Scientology or other religious methods
3 to violate [Plaintiffs’] civil rights.” (Id.) Ms. ██████████ claims she and her daughter
4 “were exploited with multidimensional sexual experiences,” which the Church of
5 Scientology calls “mind f**king.” (Id.)

6 Ms. ██████████ claims the aforementioned “communication highway” was used
7 “to cause segregation to the plaintiffs” and “to cause defamation of character,
8 confusion, improper guidance and loss of economic rights, loss of right to associate,
9 to gain knowledge.” (Id. at 6.) Ms. ██████████ claims “[t]he defendants have misused
10 research by obtaining cooperation by . . . using the power of suggestion and coupling
11 it with repetition.” (Id.)

12 Ms. ██████████ claims “[t]he defendants’ discrimination is with the intent to
13 annihilate,” claiming “the discriminatory method is not only to purpose death upon the
14 plaintiffs but also to their descendants.” (Id.) Ms. ██████████ asserts the “Church of
15 Scientology believes in accessing past and present life experiences,” and that
16 “[r]esearch has reveal[ed] methods for time travel.” (Id.) She asserts the “Church of
17 Scientology’s term ‘thetan being’ means the human spirt,” and that this “thetan being
18 can be accessed and their life detrimentally affected by relocation or elimination.” (Id.)
19 Ms. ██████████ contends Lamke practiced such a method of “relocation or elimination”
20 of her thetan being while she was a student in his department. (Id.) Ms. ██████████
21 claims “Defendant has advocated the creation of the future,” which is a process the
22 Church of Scientology calls “postulation.” (Id.) Ms. ██████████ asserts that, through
23 postulation, “defendant misused religious practices, science or research,” and that the
24 “intentional taking of all the unborn ‘theta beings’ . . . from [Ms. ██████████] prevents
25 [her] from having descendants.” (Id. at 7.)

26 Ms. ██████████ asserts she “has been able to recall past life experiences that have
27 rights taken away including the memory of three children, the taking of all her
28 descendants, wealth and loss of economic rights and privileges, loss of relationships

1 with family, friends and associations, lack of travel, lack of privacy, other fulfilling and
2 rewarding skills like being a fast reader.” (Id.)

3 Ms. [REDACTED] alleges “the discrimination is to prevent her free speech and other
4 First [A]mendment rights.” (Id.) She alleges two state licenses have been denied as
5 a result of prior restraint. (Id.) The first license was a California license to practice
6 law, which Plaintiff failed to receive after failing the bar exam. (Id.) Ms. [REDACTED]
7 claims she failed the bar exam because, about ten days prior to the exam, her daughter
8 suffered a “multidimensional sexual battery which [Ms. [REDACTED]] contends was a
9 state authorized gang rape by sheriff deputies.” (Id.) She claims the denial of her law
10 license is a prior restraint in violation of the First Amendment. (Id. at 16-17.)

11 Ms. [REDACTED] elaborates that “Defendant arranged for three specifically placed
12 multidimensional sexual experiences for [her daughter] with the intent to alter her
13 natural development for the purpose of her sexual exploitation.” (Id. at 8.) Ms.
14 [REDACTED] asserts the first incident occurred in April or May 2000 and involved only
15 Lamke, the second “was about June to August 2003” and involved “Defendant Dixon
16 and numerous of his associates,” and the third was on July 16, 2011 and involved
17 several sheriff deputies. (Id.) Ms. [REDACTED] further claims there were “repetitious and
18 on-going batteries . . . against [Plaintiffs’] will and during unconscious sleep.” (Id.)
19 Ms. [REDACTED] thus asserts her daughter’s Thirteenth Amendment rights were violated
20 because “these batteries caused a loss of vital energy to the Daughter and provided for
21 sexual gratification to the defendants, they should be considered involuntary sexual
22 servitude.” (Id.) Ms. [REDACTED] further contends that, “as a State Authorized rape of
23 the daughter,” such action constitutes a violation of the daughter’s Eighth Amendment
24 right to be free from cruel and unusual punishment. (Id.) Ms. [REDACTED] asserts her
25 daughter “cannot escape the confines the Defendant has placed in her dreams,” and that
26 “the deprivation of sleep and loss of vital energy is torture.” (Id.)

27 Ms. [REDACTED] then goes on to describe how each of the remaining defendants
28 were involved in the alleged scheme to discriminate against Ms. [REDACTED] and her

1 daughter.

2 Ms. ████████ asserts defendant Jesse Dixon (“Dixon”) is, like Lamke, a faculty
3 member at San Diego State University, and that Dixon discriminated against Ms.
4 ████████ by changing the answers on her exam to prevent her from obtaining a license
5 to be a recreational therapist. (Id. at 11-12.) Ms. ████████ asserts Dixon spoke of
6 Church of Scientology theories in class and discussed “States [sic] requested research
7 of answering the question of what does it take to make one commit suicide,” and Ms.
8 ████████ believes she is the subject of such research. (Id. at 12.) Ms. ████████
9 asserts Dixon led the “multidimensional battery that took [her] line of descendants,”
10 and that he also led the “multidimensional sexual assault on [her daughter] in 2003,”
11 which involved “him training her a[] little at a time to perform sexually and each time
12 she conformed, he rewarded her with a sucker.” (Id.) Ms. ████████ asserts “this was
13 a state authorized gang rape involving numerous of his associates,” and that her
14 daughter’s thetan being “did not survive the attack as part of the annihilation.” (Id.)

15 Ms. ████████ asserts her daughter experienced the second “multidimensional
16 sexual battery” from early July 2003 to mid-August 2003, which “started with
17 significant trust building and training and extended over numerous nights,” ending
18 “with the exploitation of [Ms. ████████’s] daughter by numerous associates of the
19 defendant.” (Id. at 13.) Ms. ████████ asserts she also “suffered from
20 multidimensional batteries causing her to suffer a serious depletion of vital energy and
21 experience a paralysis and watched helplessly and was unable to protect” her daughter.
22 (Id.)

23 Ms. ████████ alleges defendant Sonya Wright (“Wright”) was also employed
24 at San Diego State University and that she “improperly hired, provided inadequate
25 supervision and inadequate training to the defendants,” and that she failed to take
26 action “to prevent the violations suffered by the plaintiffs.” (Id. at 14.)

27 Ms. ████████ asserts defendant William Gore (“Gore”) is the Sheriff of San
28 Diego County and that he “knew or should have known of the condition of the sheriff

1 department including improper hiring, inadequate supervision and inadequate training
2 leading to the violation of the plaintiffs' civil rights." (Id. at 15.) Ms. [REDACTED]
3 asserts that "sheriff personnel claim state authority for conduct and refuse to
4 investigate" Ms. [REDACTED]'s theory that "sheriff personnel are involved in the
5 multidimensional sexual assault" on Plaintiffs, despite the fact that Ms. [REDACTED] has
6 provided the sheriff's department with Slate's book on psychic vampires. (Id. at 16.)
7 Ms. [REDACTED] asserts that the defendant professors, Lamke and Dixon, are directing
8 sheriff's personnel in the alleged annihilation scheme. (Id.)

9 Ms. [REDACTED] asserts defendant Diane Jacobs "is employed as Board of
10 Directors," and that she "knew or should have known of the condition of the sheriff
11 department," and failed to take corrective action. (Id. at 17.)

12 Ms. [REDACTED] claims defendant Al Guerrin ("Guerrin") "is employed as
13 Assistant Sheriff," and that "[h]e was the Captain of the Lemon Grove Sheriff
14 Department in 2004 when [Ms. [REDACTED]] visited him . . . at the same time as the
15 severe 2003 multidimensional sexual experiences to [Ms. [REDACTED]'s daughter]." (Id.
16 at 18.) Ms. [REDACTED] claims that, prior to this visit, she "experienced
17 multidimensional batteries of which some were sexual and others were severe
18 beatings." (Id.) She claims Guerrin "attempted to use the multidimensional sexual
19 batteries against [her] twice in his presence." (Id.) Ms. [REDACTED] further claims
20 Guerrin also "improperly supervised, inadequately hired and inadequately trained the
21 sheriff personnel under his authority," and failed to take corrective action. (Id.)

22 Ms. [REDACTED] asserts defendants Sergeant Bolwerk ("Bolwerk"), Sergeant
23 Yamamoto ("Yamamoto"), Sergeant Kirk Thomson ("Thomson"), Lieutenant Finley
24 ("Finley"), and Deputy Willis ("Willis") are all employees of the sheriff's department
25 and that they participated in the "multidimensional sexual batteries and beatings"
26 against Plaintiffs and/or failed to take corrective action. (Id. at 19-22.)

27 Ms. [REDACTED] claims defendant Lieutenant Michael Hernandez ("Hernandez")
28 is also employed by the sheriff's department and that he participated in the

1 discrimination against Plaintiffs by failing to take action when Ms. ██████ advised
2 him that Plaintiffs' neighbor—defendant sheriff's deputy Donna Duncan
3 ("Duncan")—had taken an inappropriate interest in Ms. ██████'s daughter and that
4 Ms. ██████ herself was experiencing a drain in vital energy. (Id. at 22-23.) Ms.
5 ██████ asserts Hernandez retaliated against her "by sending a deputy and [PERT]
6 nurse to [Ms. ██████'s] home." (Id. at 23.)

7 Ms. ██████ asserts defendant Sergeant Rose ("Rose") is also employed by the
8 sheriff's department and that she supervised Duncan. (Id. at 24.) Ms. ██████
9 asserts that, in June 2010, she complained to Rose that Duncan had an inappropriate
10 interest in Ms. ██████'s daughter and that both she and her daughter were "suffering
11 interference with their bodily integrity." (Id.) Ms. ██████ explained her theory
12 regarding the "drain of her vital energy while she was sleeping and forwarded her a
13 copy of [the Slate book on psychic vampires]." (Id.) Ms. ██████ claims Rose, in
14 turn, retaliated against Ms. ██████ "by sending a deputy and [PERT] nurse to [Ms.
15 ██████'s] home." (Id.)

16 Ms. ██████ claims "Defendant Detective with the PERT nurse" is also
17 employed by the sheriff's department and that he participated in the discrimination
18 against Plaintiffs by going to Plaintiffs' home several days after Ms. ██████
19 reported Duncan's alleged inappropriate interest in Ms. ██████'s daughter to
20 Hernandez and Rose. (Id. at 25.)

21 Ms. ██████ claims defendant Wendy TBD ("Wendy") was the PERT nurse
22 who accompanied the aforementioned deputy. (Id. at 35.) Ms. ██████ claims
23 "defendant used intimidation to threaten [Ms. ██████] with incarceration as
24 retaliation and to violate her civil rights." (Id.)

25 As mentioned above, Ms. ██████ alleges Duncan is also deputy for the
26 sheriff's department, and also that she "lives a couple doors down from" Plaintiffs. (Id.
27 at 26.) Ms. ██████ asserts she recognized Duncan's voice "as being the deputy that
28 arranged the multidimensional gang rape" of Ms. ██████'s daughter, and that

1 Duncan “participated in repetitive assaults and beatings on [Ms. ██████████],” which
2 “should be considered involuntary servitude.” (Id.) Ms. ██████████ asserts Duncan also
3 “arranged for a hearing devi[c]e to be placed inside [Plaintiffs’] home by sending . . .
4 a salesman for a home security system.” (Id.)

5 Ms. ██████████ claims defendant Marilyn TBD (“Marilyn”) is also employed by
6 the sheriff’s department and that she participated in the alleged discrimination scheme.
7 (Id. at 36-37.) Ms. ██████████ asserts Marilyn advised Ms. ██████████ that the “sheriffs
8 were hiring for court deputies,” and that, in January 2011, Marilyn stopped her vehicle
9 in front of Ms. ██████████’s home to speak with Duncan. (Id. at 37.) Ms. ██████████
10 asserts that, when she looked out the window, Duncan glared at her. (Id.)

11 Ms. ██████████ claims defendant Sergeant Wallace (“Wallace”) is also an
12 employee of the sheriff’s department and that he responded to Ms. ██████████’s 911 call
13 regarding the alleged July 16, 2011 multidimensional attack on Ms. ██████████’s
14 daughter, and that Wallace failed to fully investigate Ms. ██████████’s claims. (Id. at
15 33.)

16 Ms. ██████████ alleges defendant Deputy Bucher (“Bucher”) is also employed by
17 the sheriff’s department and that he responded to Ms. ██████████’s call in May 2012
18 regarding her concern that Duncan was continuing to cause multidimensional attacks
19 against Ms. ██████████’s daughter. (Id. at 34.) Ms. ██████████ claims that Bucher said
20 he could handle the investigation but would not return messages. (Id.)

21 Moving on to the remaining non-sheriff personnel defendants, Ms. ██████████
22 asserts that defendant Bill McDaniel is a manager that works for defendant David
23 Morse and Associates, is a Church of Scientology member, and “has misused religious
24 practices, science or research violating Plaintiffs’ civil rights.” (Id. at 27.) Ms.
25 ██████████ asserts Bill McDaniel “was so encouraged, coerced or forced by the state
26 defendants that their conduct equates to state action against [Plaintiffs] by
27 participating” in Lamke and Dixon’s discrimination scheme. (Id.) Ms. ██████████
28 asserts that, “by using the ‘communication highway’ Defendant misuse[d] religious

1 practices, science or research to conduct defamation of character of [Ms. ██████████]
2 resulting in segregation, economic hardship and deprivation of rights. (Id. at 28.)

3 Ms. ██████████ asserts Julie McDaniel is an office manager at David Morse and
4 Associates and is also a Church of Scientology member. (Id.) Ms. ██████████ claims
5 Julie McDaniel gave Ms. ██████████ religious books concerning the Church of
6 Scientology, “showed disapproval that [Ms. ██████████] could not make a better effort
7 to read them,” and also participated in the alleged discrimination scheme. (Id. at 29.)

8 Ms. ██████████ claims defendant Skip Williams (“Williams”) is an “Investment
9 Representative” that worked with Ms. ██████████ and that he invited and took her to the
10 Church of Scientology. (Id. at 30.) Ms. ██████████ asserts Williams violated numerous
11 civil rights by using the “communication highway.” (Id.)

12 Ms. ██████████ claims defendants John Parson (“Parson”) and Mr. Strickland
13 (“Strickland”) were employed as principal and teacher, respectively, at the daughter’s
14 school. (Id. at 31-33.) Ms. ██████████ claims Parson and Strickland discriminated
15 against Plaintiffs by failing to take appropriate action in response to Ms. ██████████’s
16 daughter being bullied at school. (Id.)

17 Plaintiffs contend “the Sexual Psychopath in Institutions of Higher Learning
18 statute is unconstitutional because the states valid purpose cannot be achieved,”
19 because “[i]t sweeps too broadly or too narrowly to be effective . . . is vague,” and “is
20 irrational.” (Id. at 37-38.) In short, Plaintiffs take issue with the unidentified statute
21 because it requires “the removal of sexual psychopath only if they are convicted.” (Id.
22 at 38.)

23 Plaintiffs conclude their FAC with a prayer for “\$4,000,000 to include all
24 remedies available under the law.” (Id. at 40.)

25 Considering Plaintiffs’ entire FAC, as set forth above, the Court finds Plaintiffs’
26 allegations lack an arguable basis in fact. See Neitzke, 490 U.S. at 325. At the core
27 of Plaintiffs’ allegations is a theory that San Diego State University faculty used
28 psychic means to orchestrate a scheme involving sheriff’s department personnel, Ms.

1 ■■■■■■■■■■'s former colleagues, and the Church of Scientology to destroy the lives of
2 Ms. ■■■■■■■■■■ and her daughter. Plaintiffs' allegations rest on "psychic vampirism";
3 a telepathic "communication highway"; psychic "multidimensional" attacks; psychic
4 "mind f**king"; and demonic possession—all used to obliterate Plaintiffs' "thetan
5 beings" or human spirits and to drain them of their "vital energy." Notwithstanding
6 Plaintiffs' reliance on Slate's book about "psychic vampirism" and terms used by the
7 Church of Scientology, the Court finds these allegations to be "fanciful," "fantastical,"
8 or both. See id.

9 Even assuming there were a factual basis for Plaintiffs' allegations, Plaintiffs
10 have not provided any legal basis on which to sue Defendants for engaging in such a
11 scheme. Plaintiffs assert Defendants' actions violated their First, Thirteenth, Eighth,
12 and Fourteenth Amendment rights by subjecting them to gender, religious, and racial
13 discrimination. Plaintiffs have provided no authority, and the Court has found no
14 authority, however, that would allow a plaintiff to recover under these amendments for
15 being subjected to such a scheme. The Court thus finds Plaintiffs' allegations lack an
16 arguable basis in law. See Neitzke, 490 U.S. at 325.

17 In sum, the Court finds Plaintiffs' allegations are frivolous for purposes of §
18 1915(e)(2)(B)(i) and must therefore dismiss Plaintiffs' FAC. Further, because a
19 frivolous claim, by definition, has no merit, the Court will dismiss Plaintiffs' FAC with
20 prejudice. See Lopez, 203 F.3d at 1127 n.8.

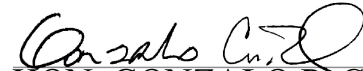
21 For the foregoing reasons, **IT IS HEREBY ORDERED** that:

- 22 1. Plaintiffs' Motion to Disqualify Judge, (ECF Nos. 40, 47), is **DENIED**;
- 23 2. Plaintiffs' Renewed Motion to Proceed in Forma Pauperis, (ECF Nos. 40,
24 43), is **GRANTED**;
- 25 3. Pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), Plaintiffs' FAC is **DISMISSED**
26 **WITH PREJUDICE**, and the Clerk of Court is directed to enter
27 **JUDGMENT** accordingly;
- 28 4. All remaining motions that remain pending are **DENIED AS MOOT**;

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5. The hearings currently set on September 6 and 20, 2013, are **VACATED**;
6. The Clerk of Court is directed to **TERMINATE** this case; and
7. The Clerk of Court is directed to **FILE UNDER SEAL** this Order in accordance with the procedures set forth in the Order at ECF Nos. 5, 6.

DATED: September 4, 2013


HON. GONZALO P. CURIEL
United States District Judge